

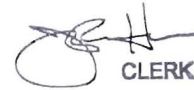
IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

FILED

JUL 07 2009


CLERK

IMAGINE, LLC,

Plaintiff,

vs.

NORMAN H. LESLIE, individually, and
doing business as LEXSTAR
DEVELOPMENT AND CONSTRUCTION,
ROBERT LESLIE, Individually, and
doing business as LEXSTAR
DEVELOPMENT AND CONSTRUCTION
LEXSTAR DEVELOPMENT AND
CONSTRUCTION COMPANY, LLC, and
PRAIRIE DESIGN STUDIO, LTD.,

Defendants.

Civil No. 09-3013

NOTICE OF REMOVAL

COMES NOW Defendants Norman H. Leslie, Individually, and doing business as Lexstar Development and Construction¹, Robert Leslie, Individually, and doing business as Lexstar Development and Construction², and Lexstar Development and Construction Company, LLC (hereinafter referred to as "Defendants"), pursuant to 28 U.S.C. §§ 1441 and 1446 and gives notice that this cause is hereby removed from the Circuit Court, Sixth Judicial District, Hughes County ("State Court"), to the United States District Court for

¹ Defendant Norman H. Leslie does not admit or acknowledge or otherwise give credence to the Plaintiff's claim that he is "doing business as Lexstar Development and Construction.

² Defendant Robert Leslie does not admit or acknowledge or otherwise give credence to the Plaintiff's claim that he is "doing business as Lexstar Development and Construction.

the District of South Dakota, Central Division. In support of this Notice of Removal, the removing Defendants state as follows:

1. This action is a civil action within the meaning of the Acts of Congress relating to the removal of cases.

2. On or about June 10, 2009, Plaintiff delivered to Defendants by personal service a Summons and Complaint, asserting breach of contract, warranty and other claims against the named Defendants in Circuit Court, County of Hughes, State of South Dakota. Copies of all pleadings and orders are attached to the original Notice of Removal as Exhibit A.

3. This action is removable pursuant to 28 U.S.C. §§ 1441 and 1446 as complete diversity exists between Plaintiff and all Defendants and the amount in controversy exceeds the sum or value of \$75,000, exclusive of costs and interest. Thus, this Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

I. Complete Diversity of Citizenship Exists Between Plaintiff and Defendants

4. At the time of the commencement of this action, Plaintiff was, and still is, a citizen of the State of South Dakota, where it is organized as a South Dakota Limited Liability Company, and where its principal place of business is located in Pierre, South Dakota.

5. At the time of the commencement of this action, Defendants Norman H. Leslie and Robert Leslie were, and still are, residents of the State of North Dakota. At the time of the commencement of this action, Defendant Lexstar Development and Construction Company, LLC is a limited liability company duly organized and existing

under the laws of the State of North Dakota, with its principal place of business in Fargo, North Dakota. Defendant Prairie Design Studio, Ltd. is to the best of Defendants' information a North Dakota company with its principal place of business in North Dakota. As a result, Defendants are not now, and were not at the time of the filing of the Complaint, citizens of the State of South Dakota.

6. Since Defendants were not at the time Plaintiff commenced this action, and are not currently, citizens of the State of South Dakota, diversity of citizenship exists under 28 U.S.C. § 1332.

II. The Amount in Controversy is Satisfied in this Case

7. Plaintiff has claimed damages in an amount that will exceed \$75,000. Therefore, the jurisdictional amount under 28 U.S.C. § 1332 is met.

III. The Prerequisites for Removal Have Been Met

8. As set forth above, this Notice of Removal is filed within 30 days of Plaintiff commencing this action. This Notice is therefore timely under 28 U.S.C. § 1446.

9. Because complete diversity exists between Plaintiff and Defendants, and the amount in controversy exceeds \$75,000, this Court is vested with subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

10. Defendants have not previously sought similar relief.

11. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

12. Written notice of the filing of this Notice of Removal is being delivered to Plaintiff through its counsel of record and to Defendant Prairie Design, Ltd. at its

corporate offices. A copy of the Notice of Removal will be filed with the Clerk of Court for the Circuit Court, Sixth Judicial District, County of Hughes, State of South Dakota.

WHEREFORE, Defendants pray that the above-titled state court action, now pending in the Circuit Court of Hughes County, South Dakota, be removed to the United States District Court for the District of South Dakota, Central Division.

Dated this 7th day of July, 2009.

LYNN, JACKSON, SHULTZ &
LEBRUN, P.C.



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